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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,872	09/23/2004	Hiroshi Itagaki	JP920020048US1	1107
46335 7590 04/17/2008 DILLON & YUDELL, LLP 8911 N CAPITAL OF TEXAS HWY SUITE 2110 AUSTIN, TX 78759				
EXAMINER				
DAVIDSON, DAN				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
04/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/508,872

Applicant(s)

ITAGAKI, HIROSHI

Examiner

DAN I. DAVIDSON

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2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 1, 3, 5 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1, 3, 5, and 7 are objected to because of the following informalities:
 - (1) In claims 1 and 5, line 3, respectively, "--on--" should be inserted between "data" and "a".
 - (2) In claims 3 and 7, line 4, respectively, "to be" should be deleted.Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, line 8 and claim 5, line 9, "said faulty portion" has a lack of antecedent basis.

Claim 1, lines 2-3, "said set of data a tape recording medium" is confusing as written.

Re claim 4, lines 4-8 and claim 8, lines 6-10; the limitation in the above claims drawn to (means for) determining a faulty portion freshness degree of a faulty portion covers the same subject matter and is even more broad than the limitation in claims 1 and 5 drawn to reading a data freshness degree of data within the faulty portion (i.e. a faulty portion freshness degree). Likewise, the limitation in the above claims drawn to

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(means for) recording a data freshness degree immediately before the faulty portion, wherein the data freshness degree is higher than the faulty portion freshness degree covers the same subject matter and is even more broad than the final limitation in claims 1 and 5. As a result, the claims are confusing and indefinite.

Claims 2, 3 and 6-8 are rejected since they depend on claims 1 and 5, respectively.

Allowable Subject Matter

4. Claims 1-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Re claims 1 and 5; the prior art of record, and in particular the prior art cited below which is the closest prior art of record, fails to teach or suggest all of the claimed limitations in combination, specifically including the limitations of (means for) reading a data freshness degree of data within the faulty portion on the tape recording medium in response to a determination that a fault occurs during recording; and (means for) recording the data freshness degree of the set of data immediately before the faulty portion on the tape recording medium, wherein the data freshness degree is higher than the data freshness degree of data within the faulty portion.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maple et al (US 6,883,122 B2), Maple et al (US 6,693,755 B2), Baron et al (US 6,288,862 B1), and Bartlett (US 6,282,040 B1) teach recording write pass data on a tape indicating how new a set of data is with respect to a previously-recorded data; and determination of faults that occur during recording based on write pass data read.

6. The Examiner has included a copy of the European publication (EP 1508900 A1) corresponding to the instant application along with the Japanese search report published in the back of the European publication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAN I. DAVIDSON whose telephone number is (571)272-7552. The examiner can normally be reached on Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. I. D./
Dan I Davidson
April 9, 2008

/Andrea L Wellington/
Supervisory Patent Examiner, Art Unit 2627